

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2008-319-S - ORDER NO. 2009-36  
JANUARY 22, 2009

IN RE: Anthony Moore, Complainant/Petitioner	)	ORDER HOLDING
	)	MOTION TO DISMISS IN
vs.	)	ABEYANCE AND
	)	INSTRUCTING
Palmetto Utilities, Inc.	)	COMPLAINANT TO
Defendant/Respondent	)	RESPOND WITHIN TEN
	)	DAYS

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the motion to dismiss filed by Defendant/Respondent Palmetto Utilities, Inc. (“Palmetto”). Palmetto timely answered the Complaint filed by the Complainant/Petitioner Anthony Moore (“Moore”) on or about October 2, 2008. On October 14, 2008, the Docketing Department of the Commission served notice upon the parties setting forth their deadlines for prefiling testimony. According to the notice, Moore’s prefiled testimony was to be postmarked no later than December 11, 2008. Moore failed to file prefiled testimony as instructed<sup>1</sup>, and on December 18, 2008, Palmetto moved to dismiss, based upon Moore’s failure to prefile testimony as required and upon failure to state a claim upon which relief can be granted. In response to this Commission’s directive of January 7, 2009, Palmetto filed an affidavit verifying the information contained within Palmetto’s answer and motion to dismiss. Moore has filed no response to Palmetto’s motion to dismiss.

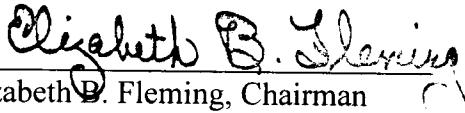
---

<sup>1</sup> Mr. Moore’s late-filed, two sentence memo dated December 16, 2008, provided no information relevant to the complaint and does not constitute prefiled testimony.


In order to afford Moore full notice of his procedural obligations and ample opportunity to be heard, the Commission, by this Order, instructs Moore to file any response to Palmetto's motion to dismiss within ten days of the receipt of this Order. Moore is further instructed that if he fails to file a substantive response to the motion to dismiss within the time period afforded him to do so, the motion may be deemed unopposed and granted without a hearing.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

  
Elizabeth B. Fleming, Chairman

ATTEST:

  
John E. Howard, Vice Chairman

(SEAL)